IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.2622 OF 2004

Tukaram Eknath Balgude ..Petitioner

Vs.

Shri.Pandharinath Eknath
Balgude and Ors. ..Respondents

....

Mr.Prafulla B.Shah for Petitioner
Ms.Preetam P.Tendulkar for D.R.More
for Respondent No.5B.

....

CORAM : B.H.MARLAPALLE,J.
DATE : APRIL 5,2005

P.C.:

1. Heard Mr.Shah, the learned counsel for the petitioner who is the plaintiff in R.C.S.No. 190 of 1999. In the said suit, the plaintiff filed an application at Exh. 48 seeking amendments in the plaint. This application was filed on or about 15.11.2003 and it has been partly allowed by the learned Civil Judge J.D.Daund by the impugned order dated 7.1.2004. The amendments as proposed in terms of prayer clause 6(AA), (EE), (AYE) and (AU) have been allowed whereas the amendments proposed in terms of clause 6(A), (E) (U), (OO), (AE) and (KH) have been rejected. It is true that the learned Judge of the trial Court has not given detail reasons as to why four proposed amendments have been allowed and remaining six have been rejected. Mr.Shah, the learned counsel contended that these rejected

amendments are also relevant and they are required to be considered. If no reasons are given, the trial Court certainly failed to apply its mind on the necessity of the proposed amendments and therefore, on that ground itself, the order is indefensible as per Mr.Shah.

2. A perusal of the amendment application Exh.48 shows that even the plaintiff did not furnish the reasons behind the amendments which have been turned down and infact, no particulars have been provided in some cases. It would be therefore, expedient for the petitioner to apply afresh by giving better particulars and pray before the trial Court to consider the same on the basis of such better particulars. As at present there is no reason to hold that the trial Court has committed an error apparent on the face of record in disallowing certain proposed amendments. Hence, the petition is rejected and at the same time if the petitioner submits a fresh application within a period of two weeks from today and by furnishing better particulars on these amendments rejected by the trial Court, the said application be considered on its own merits and after hearing of the parties concerned as expeditiously as possible and in any case within a period of eight weeks from the date of the filing of the application.

[B.H.MARLAPALLE,J.]